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IN THE

Supreme Court of the United States

OCTOBER TERM, 1962

No. 584

ANDREW J. EASTER,
Petitioner,

v.

DEPARTMENT OF ASSESSMENTS OF BALTIMORE CITY,
Respondent.

PETITION FOR REHEARING ON ORDER DENYING APPEAL AND OR WRIT OF CERTIORARI

Andrew J. Easter, appellant on Appeal, petitioner herein, file this Petition for Rehearing on Appeal from the Court of Appeals of the State of Maryland, by Jurisdictional Statement, pertaining to a State Statute, and or for a Writ of Certiorari; urgently requests the Court to review the proceedings here, decided on January 7, 1963, and cite the following compelling facts which may have been overlooked:

1. First Reason for Granting Rehearing

State Statute—Tax Laws of Maryland—Article 81, Section 19—In Charles County, and in Calvert County, land which is planned or projected for subdivision use *shall not* be assessed as subdivided units until actually conveyed as such.

When this court is asked, to sustain or invalidate a state statue upon the ground that it provides special privileges to persons of a particular section of a state, which is planned or projected for subdivision until accomplished or actually conveyed as aforementioned. The nature and extent of the obligations of the tax assessor, pretending to be performing his duty within the state, by depriving the petitioner of his property rights, etc., by wilfully subdividing the frontage of petitioner's agreage and the right of ways, into lots; assessed with the same tax rate as the adjacent land, improved with a 200,000 cu. ft.* theater (Easter v. Dundalk, Case No. 131, O.T.1958, encroachment), without deducting the customary vacancy allowance of at least 1/3 off for unimproved property.

2. Second Reason for Granting Rehearing

Affirmative showing of error, had been filed by Petition for Reduction of Assessment on Real Estate before the Department of Assessments of Baltimore City under penalties of perjury, by Appeal before the Board of Municipal and Zoning Appeals of said city by affidavit, by Petition of Appeal before the Maryland Tax Court under the penalties of perjury, a: Appeal before the Baltimore City Court, and eventually to the Court of Appeals of Maryland, including an attorney's Motion for Reargument, in all of which the petitioner had presented proof of evidence by the facts, definitely and especially in Appellant's Brief and Record Extract before the Court of Appeals, and in the Jurisdictional Statement, both of which are filed in herein case.

In the foregoing the petitioner continuously requested his constitutional rights be granted, permitting him to testify, to produce evidence on the facts, which facts are

* Theater assessed @ 14c per cu. ft., which is 1/3 the assessment on the improvements of other property within the area.

contrary to the arbitrary and consistant attitude which respondent and the appellates has displayed, creating a pattern of affirmations, resulting from disregarding, denying, misrepresenting and/or not reporting, etc., petitioner's testimony as follows:

Appeal No.

1. Dept. Assess'ts.—*Duty to recommend—no hearing, no abatement—*

2. Bd. M. & Z.A.—Judge shouted he didn't *"Want to hear anything about the theater, get a real estate agent and he will sell the property for you"—denied the right to testify, no transcript—*

3. Md. Tax Ct.—former State Tax Comm., *a body of experts—not qualified to testify—inactuate transcript—*

4. Balto. City Ct.—Judge shouted *"Stand up—Sit down,"* and later remarked *"We will make him do something with the property," "He will have to do something with the lot"*—denied trial *de novo—not permitted to take oath, or to testify to produce evidence—Oral Opinion—No Transcript—*

5. Ct. Appeals Md.—Impairs the obligation of the former State Tax Comm.—three judges asked the assistant attorney General why petitioner's assessment was raised *two's*, he pointed and shouted each time *"It's in the brief"—denied an attorney's request for Reargument—*

6. Supreme Ct.—*Is not bound by finding of state court, and may determine for itself the facts of a case upon which asserted federal right depends—*

This case is a proceeding brought by the petitioner, pursuant to the Constitution of Maryland, Declaration of Rights, Article 15.—Uniformity of Taxation, and the Annotated Code of Maryland, Article 81.—Revenue and Taxes, to compel the Department of Assessments, the respondent, to perform the duty to provide a fair and equitable assessment on petitioner's property by correcting

the inequality caused by the various reductions on the surrounding and adjoining comparables, and the illegal increases on petitioner's property as high as 100% by subdividing the Right of Ways and the front acreage into lots.

The proceeding was brought to force the respondent to abide by the prior decisions of the former State Tax Commission, who had continuously reversed the said department in all of the prior cases, as there has been no changes made to warrant any increase.

The appellate agencies and the courts relinquished their duties and their authority to the real property assessor, and the respondent's counsel supported the assessor blindly, in regard the past, and deliberately now, by ignoring the erroneous and evasive statements, supported only by reference to the word, uniformity or equality, and the reduction of assessment on adjoining and adjacent properties, the negligence in allowing assessment on 200,000 cu. ft. theater, to remain, including the encroachment of said theater on petitioner's land (Easter v. Dundalk Holding Co. Certiorari, case no. 131, O.T. 1958), and the unconstitutional acts of the aforesaid agencies and the courts, in denying the petitioner over his objections, the right to testify and be heard as a witness.

The case presents a substantial question not only because the judgment below is contrary to the decisions of this Court, but also because the federal government and the state governments are more and more making committments to private citizens, such as the 10 year tax exemption, in order to encourage them to undertake business activity deemed desirable from the viewpoint of the public or public good. And the unwarranted and inequitable assessments made in prior years by the assessor on the petitioner's acreage from 150%—250%—730%—480% to the present 400%, all of which were time consuming and expensive even though the petitioner was

successful in all the past proceedings, especially the rehearing before the State Tax Commission in 1958, and which had absorbed about 20 years of litigation, etc.

Therefore, the consolidated cases, Nos. 61-66, are enumerated and described with their comparables, with the lists and the exhibits, etc., as there has been no changes since 1958, etc., in the neighborhood, properties, witnesses and the reasons, except as to the reductions of the assessments on some of the comparables adjoining the petitioner's property as referenced in the Appellant's Brief and Record Extract, pages 6-15, and pages 16-20, in Proof of Evidence by the Facts, of petitioner's Jurisdictional Statement all of which is confirmed in the Brief and Appendix of Appellee and the original Record filed in this Court.

The foregoing represents the consistent altitude which the respondent and the lower courts, etc., have displayed towards pretending but not actually allowing petitioner to testify, or not reporting, or transcribing correctly petitioner's testimony in challenging the correctness of the findings of fact and conclusion of law of the appellate agencies and the lower courts, whose actions were arbitrary and unfair, since the facts are to the contrary. There is no motion by the respondent to dismiss or to affirm.

The proceeding herein has been submitted before 22 judges and since it appears to be unanimous that the tax assessor, whose duty is only to *Recommend*, is permitted to continue to increase the assessments on petitioner's property each year in spite of all the prior reversals and the facts as in this case, the denial of the appeal and or certiorari herein, will have the further effect of stiffening respondent's attitude on future tax assessments, etc., than every Citizen who owns property would be in jeopardy and insecure.

CONCLUSION

For the foregoing reasons, petitioner respectfully urges the Court to grant rehearing of the petition and upon reconsideration to substain the appeal and or to issue the writ. And that the tax paid under protest, in excess of the amount properly chargeable, shall be refunded with interest, from date of payment, 1961, with costs, etc.

Respectfully submitted,

ANDREW J. EASTER,
2801 Adams Mill Road, N.W.,
Apt. 108, Washington 9, D. C.,
(Adams 2-3874)
Petitioner, In Proper Person

CERTIFICATION

It is hereby certified by the undersigned that this petition is presented in good faith and not for delay and that the petition is restricted to grounds which are confined to intervening circumstances of substantial or controlling effect.

ANDREW J. EASTER,
Petitioner.

AFFIDAVIT OF SERVICE
(Jurat dated January 31, 1963)

ANDREW J. EASTER,
Petitioner.